

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 37

BY RINGO

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3048, IDAHO CODE, TO REMOVE THE MONETARY REQUIREMENT ON APPLICABILITY OF THE STATE ON ADJUSTED OR COMPROMISED CASES, TO REQUIRE INCREASED INVOLVEMENT OF STATE TAX COMMISSIONERS AND AUDIT STAFF IN FINALIZING SETTLEMENT AND CLOSING AGREEMENTS, TO REQUIRE CERTAIN WRITTEN DETAIL IN SETTLEMENT AND CLOSING AGREEMENTS AND TO REQUIRE CERTAIN WRITTEN DETAIL IN ANNUAL REPORTS TO THE LEGISLATURE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3048, Idaho Code, be, and the same is hereby amended to read as follows:

63-3048. ADJUSTED OR COMPROMISED CASES -- SETTLEMENT AND CLOSING AGREEMENTS. (a) The state tax commission or its delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person, or of the person for whom he is acting, in respect of any tax under this chapter for any taxable period ending prior to the date of the agreement.

(b) ~~Where the amount in issue relating to the tax liability of any taxpayer is equal to or exceeds fifty thousand dollars (\$50,000) and the commission has delegated the authority to enter into a settlement or closing agreement for such liability to an individual commissioner, t~~The following minimum standards of procedure shall apply:

(1) In addition to the individual commissioner delegated the principal responsibility to negotiate on behalf of the commission, ~~a second commissioner~~ at least two (2) other commissioners shall be present for a final review of the negotiated settlement or closing agreement. ~~Both~~ All commissioners shall be required to sign the settlement or closing agreement to make it binding and complete.

(2) In addition to the ~~two (2)~~ commissioners present at the final review, a representative of the office of the attorney general shall be present as well as tax commission staff, which shall include ~~a tax policy specialist and either a representative~~ the auditor or auditor supervisor from the audit division or other division where the case originated.

(3) The tax policy specialist or deputy attorney general assigned to a settlement or closing agreement shall prepare and submit to the commission a written summary for the final review explaining the terms of the settlement or closing agreement. The summary shall include ~~any all comments and recommendations of agency staff including audit staff~~ the auditor or auditor supervisor.

(4) The tax commission shall retain a copy of all settlement and closing agreements and, in addition, all summaries prepared pursuant to subsection (b) (3) of this section.

(c) The tax commission shall submit an annual report to the governor and the legislature by March 1 of each year summarizing all settlement and closing agreements entered into during the previous calendar year. ~~as defined by subsection (b) of this section~~ This report shall be published and maintained on the tax commission website and shall include for each settlement and closing agreement all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) Any possible future tax consequences of the settlement.

(4) The amount agreed to pursuant to the settlement.

(5) A summary of all facts, issues and conclusions relevant to the dispute and the reasons why the settlement is in the best interests of the state of Idaho.

~~(d) The tax commission shall promulgate administrative rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section. The report shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.~~

(e) The commission shall adopt rules establishing criteria for determining when and whether to enter into settlement or closing agreements with taxpayers. These rules shall require the existence of doubt as to liability, doubt as to collectability or extreme hardship of the taxpayer.

(1) The tax commission shall promulgate administrative rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section.

(2) Such agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1i) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of the state.

(2ii) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.